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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,047	12/27/2001	David E. Winn	FED0013	3243

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EXAMINER

SAVAGE, MATTHEW O

ART UNIT

PAPER NUMBER

1723

DATE MAILED: 05/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Applicant(s) 10/035,047	Applicant(s) WINN ET AL.	
	Examiner Matthew O Savage	Art Unit 1723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,4,7,11 and 13-18 is/are rejected.
- 7) ☒ Claim(s) 2,3,5,6,8-10 and 12 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

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The disclosure is objected to because of the following informalities: ***

On lines 11-12 of claim 1, "said conductors" should be changed to --said conductor--.

Appropriate correction is required.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Concerning claim 13, it is unclear as to whether or not "an electrical circuit" recited on line 8 is the same as, or different from "an electrical circuit" recited on line 4 of the claim.

Regarding line 1 of claim 15, it is unclear as to whether "a housing" is the same as, or different from "a housing" recited on line 4 of claim 13.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 13, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Hawkins et al.

With respect to claim 1, Hawkins et al disclose a fuel distribution system including a fuel reservoir (see line 27 of col. 1), an electrically operated fuel pump 42 (see FIG. 4), a fluid flow path between the reservoir and an engine (see lines 26-38 of col. 1, and lines 11-22 of col. 2), a fuel filter 23 selectively disposed in the fluid flow path, an electrical conductor (e.g., the constrictive strip disclosed on lines 1-5 of col. 7), for selectively closing the electrical circuit of the pump to allow operation thereof (see from line 51 of col. 6 to line 9 of col. 7), the electrical conductor having an inoperative position (when the filter is removed) and an operative position (when the filter is installed), the electrical circuit of the fuel pump being closed when the electrical conductor is in the operative position, the electrical conductor maintaining the operative position when the fuel filter is disposed in the fluid flow path, the electrical conductors maintaining the inoperative position when the fuel filter is removed from the fluid flow path.

With respect to claim 13, Hawkins et al disclose an apparatus including a fuel tank, an electrically operated fuel pump 42 having a housing and an electrical circuit (see FIG. 4), a fluid filter 23 selectively disposed in the fluid flow path, and electrically conductive means (see from line 51 of col. 6 to line 9 of col. 7) for selectively closing an electrical circuit of the pump to allow operation thereof, the conductive means closing the electrical circuit of the pump when the fuel filter is disposed in the fluid flow path.

This claim has been treated as not having invoked the constraints of 35 U.S.C. 112, sixth paragraph since dependent claim 12 further structurally defines the means.

With respect to claim 18, Hawkins et al disclose a method of preventing non-filtered fuel from reaching an engine when a fuel filter is not operatively positioned in a fluid flow path upstream from the engine (see lines 26-29 of col. 1 and lines 11-22 of col. 2) including providing an electrically operated fuel pump 42 having an open electrical circuit (e.g., when the filter is removed), providing an electrical conductor (e.g., the conductive strip described on lines 1-5 of col. 7) movable to complete the electrical circuit, the electrical conductor moved into position to complete the electrical circuit when the fuel filter is operatively positioned in the fluid flow path.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins et al in view of Pringham.

With respect to claims 4 and 15, Hawkins et al disclose the fuel pump as including a fuel pump housing (see FIG. 4) but fails to specify the fuel pump as being grounded to the housing. Pringham discloses that it is known to ground fuel pump to a fuel pump housing (see the drawing Figure) and suggests that such an arrangement simplifies construction of the electrical circuit. It would have been obvious to have

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modified the filter of Hawkins so as to have included a pump grounded to a fuel pump housing in order to simplify construction of the electrical circuit.

Claims 7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins et al.

With respect to claim 7, Hawkins et al disclose an apparatus for preventing non-filtered fuel from reaching an engine connected via a fluid flow path to a fuel tank (see lines 26-37 of col. 1 and lines 11-22 of col. 2) including an electrically operated fuel pump 42 disposed in the fluid flow path, the pump being in fluid communication with the fuel tank and engine, the pump having a housing (see FIG. 4), a fuel filter 23 selectively disposed in the fluid flow path, the filter in fluid communication with the fuel tank, the pump, and the engine, the fuel filter being positioned upstream of the engine, an electrical conductor (e.g., the constrictive strip disclosed on lines 1-5 of col. 7) (see from line 51 of col. 6 to line 9 of col. 7), the electrical conductor having an inoperative position (when the filter is removed) and an operative position (when the filter is installed), the electrical conductor maintaining the operative position when the fuel filter is disposed in the fluid flow path, the electrical conductors maintaining the inoperative position when the fuel filter is removed from the fluid flow path. Hawkins fails to specify the electrical connector as being connected to ground such that the electrical conductor grounds the fuel pump in the operative position, however, such a modification is not considered patentable since the shifting of position of the ground or power lead with respect to the

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electrical conductor would not significantly modify the operation of the device (see *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950)).

Regarding claim 11, Hawkins et al disclose a filter housing 21 sized to accommodate the fuel filter and fuel pump, wherein insertion of the filter into the filter housing actuates the electrical conductor into the operative position, and wherein removal of the filter allows the electrical conductor to return to the inoperative position (see from line 49 of col. 6 to line 9 of col. 7).

Claims 2, 3, 5, 6, 8-10, 12, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 14, 16, and 17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew O Savage whose telephone number is 703-308-3854. The examiner can normally be reached on Monday-Friday, 7:00am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda W. Walker can be reached on 703-308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are 703-

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872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

M. Savage
Matthew O Savage
Primary Examiner
Art Unit 1723

mos
April 30, 2003